

# employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service  
Tax Exempt and Government  
Entities Division

A Publication of Employee Plans

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Calendar of EP Benefits Conferences

## EP Connections: Interview with Michael Julianelle

*Michael Julianelle, Director, Employee Plans Examinations, has worked for the IRS in a variety of positions since 1978. Mr. Julianelle began his career as a Tax Auditor and held Branch Chief positions in SB/SE Examination and Collection. He also served as the Area Director, International and most recently led the TE/GE Examination Redesign Team for both EP and Exempt Organizations. He holds a BS in accounting from the University of Connecticut.*

### What role does EP Examinations play in the overall IRS mission?

The overriding objective of the EP examination program is developing and integrating appropriate compliance and enforcement programs that have the most positive impact on the retirement plans system. Our role specifically is making sure that the plan is operating in accordance with the plan terms and providing appropriate benefits to plan participants. Obviously when our presence diminishes, the opportunity for noncompliance increases. We must minimize that as much as possible. With 1 million filers, we will focus our efforts on those returns most needing examination, and then, after the initial stages of the examination, spend additional time only on those returns which are productive. One way to do this is by refining our inventory selection methods by using a market segment approach and circling back the information derived from those examinations in order to select better returns in the future. We'll also improve our analysis of the data we have at hand to ensure we are focused on our critical few priorities; and that we remain nimble by shifting into new areas of potential abuse. Our current expansion into abusive schemes is an example of this. We will also look at issues from the customer's perspective to improve the process and to make it less burdensome on everyone.

In summary, EP Examinations recognizes our stake in maintaining the private retirement system: making it a successful system through compliance enforcement with a customer focus.

### What examination initiatives are underway or being planned over the next year?

Three key initiatives are underway in our current work plan:

- **Abusive Tax Avoidance Transactions (ATAT)** – These are specific tax transactions/schemes that reduce tax liability by taking a tax position that is not supported by law and in a way that is not consistent with the intent of the law (i.e. camouflaged to look like legitimate retirement plans);
- **Monitoring Pension Funding** – We are coordinating with DOL and PBGC to ensure appropriate information sharing and enforcement coordination; and
- **Employee Plans Compliance Unit (EPCU)** – Many questions can be resolved without an audit. This unit will be de-centralized and managed out of Chicago and will focus on soft contact approaches and our critical few priorities.

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There are four other initiatives which are part of our critical few where we will step up our involvement and attention:

- Multiemployer plans;
- 403(b) and 457 plans;
- 401(k) plans; and
- EPTA (Employee Plans Team Audit) – A more in-depth look at plans of larger corporations with a team audit approach including technical experts, subject matter experts, and computer audit specialists.



Michael Julianelle, left, and Paul Shultz, center, at the 2005 Los Angeles Benefits Conference.

**If a plan is selected for examination, what should a plan sponsor expect?**

First, a plan sponsor should expect a professionally trained agent equipped with current technology to conduct the audit. Second, they should expect an agent who is well aware of the need for fairness and impartiality in the audit process. Third, a plan sponsor should expect an agent that is well-trained in innovative solutions and negotiation skills. Finally, they should expect an efficient process that minimizes the burden on taxpayers and representatives as much as possible, and consists of many forms of timely communication.

**Recognizing that no one wants to be selected for an examination, what is your office doing to enhance customer satisfaction with the examination process?**

An EP examination should be with an agent who is well trained in customer service techniques. Let me emphasize that we are not talking about “kinder and gentler.” We are also not talking about walking away from noncompliance. What we are saying is that the agent will be well trained and will provide customer service that is polite and courteous. We currently get high marks on this customer service element. In addition, we need to minimize the disruption our examination causes taxpayers. Feedback we receive tells us we need to improve timeliness and that there are gaps in processing examinations. We have to minimize these gaps, and ensure that agents clearly explain taxpayer rights and the process – the findings, results and any adjustments; and communicate regularly with the taxpayer.

**Is the role of an EP examiner limited to conducting examination activity?**

Along with strong auditing skills, EP examiners are our main customer service advocates and are involved in education throughout the audit process. To improve customer service, and to give our examiners what they need to perform this task, we have developed some new tools such as a [flowchart](#) of the Examination process and a [bookmark](#) which gives an overview of taxpayer rights. These tools, located on [our web site](#), can be used at the beginning of an audit to educate the taxpayer or their representative on the audit process and what they can expect during each step of the way. Additionally, our examiners participate in a significant number of nationwide and local outreach sessions each year. These presentations range from 401(k) issues, our EPTA program, or a presentation on abusive schemes. As you can see, EP examiners don’t just conduct examinations, they possess many skills.

**Awareness of the issues being identified and resolved by EP examiners would be very educational for plan sponsors, fiduciaries, participants and practitioners/vendors. Other than information shared at speeches, how does your office share EP examination experiences?**

Outreach has grown beyond the old days where one person makes a speech or takes part in a conference. The concept of outreach is mushrooming in terms of demand through the Internet and multimedia products like CD-ROMs. We need to be vigilant and alert to customers’ needs. We now have an EP Customer Education and Outreach staff to market products and to share information on what we are doing; and we are providing “Top 10 Issues” lists on our web site.

**If I wanted to find out more about the EP Examination Program, what sources of information are available?**

We are keeping current information on our [web site](#). In addition, we're planning to provide periodic articles in the Employee Plans News, along with enhanced training products and multimedia products.

**Where do you see the EP Examination Program going in the next five years?**

Focusing on our critical few priorities while remaining nimble to change, staying – if not ahead of the curve – at least *on* the curve. I also see us continuing our customer and market segment focus, continuing to make the examination process more efficient and promoting the innovative use of current technology and data analysis.

**So, that's it for the business questions. What interests do you have outside the office?**

My interests have changed over the years. I find that working on remodeling jobs around the house is relaxing and helps me refresh. My next big project is redesigning my basement so I'll have a place to display my favorite photographs, magazine covers, and other sports memorabilia and enjoy my favorite games on the big screen. In addition, I enjoy playing soccer and football with my nephews, along with teaching them new games like chess and croquet. •

**New – and Improved – EP Exam Products**

EP has heard your concerns about our examination process and we've done something about them.

EP commissioned a Task Group to develop products that would address many of the concerns expressed by our customers in their responses to our Customer Satisfaction surveys about various aspects of the EP examination process. The task group came up with some new products as well as enhancements to some existing products.

- A new product, *Employee Plans Examination Process Guide*, helps retirement plan sponsors and practitioners understand the examination of employee plans. This web-based guide, which is intended as a reference or resource to provide information about the examination process, will initially consist of eleven sections. The guide also contains all the products referenced below.
- A new publication, 1-EP, [Understanding the Employee Plans Examination Process](#), was created to replace the Publication 1 (*Your Rights as a Taxpayer*) in the initial contact package. It answers many of the questions you might have regarding our examination process. The first part of this publication explains some of your most important rights as a taxpayer. The second part explains the examination process in depth.
- The [Form 1346](#), appointment letter, was updated and made friendlier in an attempt to address the #1 question raised by customers - "Why was I selected for examination?" The revised letter explains why certain returns are selected for examination. The letter also references two new products that were created to explain customer rights and the examination process: a flowchart and bookmark (see below). The itemized listing of information needed for the examination is organized by code section and explains why the information is needed. This information will help you understand the underlying reason for our request.
- The [EP Examination Process Flowchart](#) illustrates the steps involved in an examination of a retirement plan. The flowchart begins with letting the taxpayer know that the IRS will be coming to them to conduct the audit and ends with a comment about how issues will be handled if identified during an examination.
- The [EP Examination Bookmark](#) provides a concise explanation of your rights at a glance. It also reminds customers of the advantages and responsibilities of having a retirement plan.
- A "status" letter has been developed for updating you (and your representative) when there are delays in the processing of the case.

These products are now available on the [Retirement Plans Web Page](#) and they're currently being used by our examination agents. •

**SIMPLY Speaking**

*EP started a new examination program in the first quarter of FY 2005 for SIMPLE IRA plans. Plans were randomly selected from the total population of SIMPLE plans.*

*Expect the SIMPLE IRA plan examination program to continue throughout FY 2005 and 2006. •*



## Starting Examinations ASAP after Filing

Beginning in January 2005, there's a new emphasis involving the front-end processing of Employee Plans examinations. Changes have been made in the way that most EP returns are ordered, assigned and commenced in an effort to reduce taxpayer burden and improve examination cycle time. These changes should result in starting examinations earlier after the date the return is filed and reduce the time needed to complete an examination.

First, the method for selecting returns for audit has been revised from requesting returns based on a specific plan year-end to a selection based on the most recent posting of returns to our internal control system (IDRS). This change will permit the selection of returns as early as one day after the filed return is input into our IDRS system.

Second, selected returns will be sent to the group level for audit on a more frequent basis, with the intent of maintaining no more than a one month inventory of unassigned cases at the group level. Finally, we expect all assigned cases will be started by the agent within one month of assignment, with the goal of making contact and mailing the appointment letter as soon as possible.

Note that this selection and audit of returns earlier in the audit cycle could impact the availability of the Self Correction Program (SCP) under [Revenue Procedure 2003-44](#). SCP is generally available to plan sponsors to correct Operational Failures (even if significant) without payment of any fee or sanction where the conditions of section 9 of the revenue procedure are satisfied.

However, remember that correction of significant operational failures under SCP, without sanction, applies only to those plans that are not currently under examination, unless the correction had been completed or substantially completed before the plan was placed under examination. The determination of "substantial completion of correction" will be applied at the time that the taxpayer is informed that their plan is under examination. For this reason, we re-emphasize the need to perform internal audits at the earliest stage possible. Such periodic reviews will hopefully ensure that any operational deficiencies are detected and corrected early with any necessary modifications incorporated into your established compliance practices and procedures. This should improve compliance and hopefully reduce potential operational problems that might occur in current as well as future years. •

## Phase Value

On March 14, 2005, the IRS conducted a public hearing on a proposed regulation that would permit a retirement plan to establish a phased retirement program and make distributions under such a program. Speakers representing practitioners, plan participants and employers made presentations and responded to questions from the panel conducting the hearing, which consisted of some of the pension leadership of the Treasury Department and the IRS.

In recent years, both employers and employees have expressed an interest in encouraging older, more experienced workers to stay in the workforce. Phased retirement arrangements allow employees who are at or near retirement to reduce their workload, while enabling the employer to retain experienced employees. Recognizing the need for guidance in this area, Treasury and the IRS issued [Notice 2002-47](#), requesting comments on approaches for providing opportunities for employees to continue active employment and suggestions for areas in which guidance might be appropriate. Sixteen written comments were submitted in response to Notice 2002-47. On November 10, 2004, [proposed regulations](#) were issued after Treasury and the IRS considered these comments and other materials addressing phased retirement. The proposed regulations permit an employee to receive a distribution from a qualified pension plan under a phased retirement program and establish requirements for a bona fide phased retirement program.

In addition to the presentations at the public hearing, numerous other written comments – including survey data relating to attitudes and preferences concerning phased retirement – have been submitted. The next step is for Treasury and the IRS to consider all the information submitted and move forward with guidance on phased retirement. It is premature at this point to establish a timeframe. However, finalization of this regulation remains a high priority for Treasury and the IRS. •

## Happy Trails!

*(Editor's Note: On March 25<sup>th</sup>, Paul Shultz bids farewell to Employee Plans. When Paul joined EP in 2000, he was the first Director of Rulings and Agreements. One year ago, Paul became the first Director of EP Determinations Redesign and oversaw the metamorphosis of the Determination Letter Program. Paul wrote this column as way of saying "goodbye" to all of the folks he's worked with over the past five years. As the title of this article suggests, Paul heads off to happier trails – and better fishing holes.)*

### How to Subscribe to Employee Plans News

*Employee Plans News* is issued only through IRS e-mail. For your free subscription, please go to the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep) and register on-line by selecting "Newsletters" under the "Related Topics" section and then selecting "Employee Plans News." All editions of the *Employee Plans News* will be archived at [www.irs.gov/ep](http://www.irs.gov/ep).

For your convenience, we have included Internet links to referenced materials throughout the electronic version of *Employee Plans News*. These links are identified on the paper version by the underlined text. The electronic version may be found at [www.irs.gov/ep](http://www.irs.gov/ep).

What a positively marvelous five years I have had with all of the wonderful people in Employee Plans! It is with such sadness that I take leave of you but it is also with joy as I think of the great accomplishments we have made over the past five years and the warm personal relationships I have had with so many of you.

When I arrived, on March 27, 2000, I was, as you might guess, somewhat apprehensive about what I would find as an employee of the "feared and hated" IRS. I found an organization in the ferment of change and had been invited to help shape the organization coming out of those changes. I also found a workforce of bright, knowledgeable persons dedicated to making the private pension system work for both employees and employers. I also discovered that those employees were, contrary to rumor, for the most part open to positive changes both in their own culture and in their business practices. I knew that EP had already done a good deal of "partnering" with their "customer base." I found that we were ready to explore many further ways of doing partnering and bringing our customers into our processes so that we would work out programs that would be of maximum help to them.

So, when I started that day, I joined EP in the process of standing up as part of the recently formed TE/GE Division, with about 900 employees, 600-plus in Examinations and 200-plus in Rulings and Agreements. We had a substantial Technical Group, a tiny Guidance Group, an unformed Voluntary Compliance Group and in Cincinnati a good-sized Determinations Group and a small Determinations Quality Assurance Group. Wow! Has that all changed! Technical has shrunk a lot, mostly from attrition. Guidance has flourished in the past two years and has grown to an appropriate size of about 10 employees. Voluntary Compliance stood up shortly after I arrived with 25 plus employees (not enough, I know...). Determinations Quality Assurance grew substantially and then contracted as we finished the bulk of the GUST cases. Determinations in 2003 achieved a goal all of us had wanted for some time: to bring into Determinations all those Exam agents who traditionally do DLs and prefer doing DLs, so that it grew to about 155 employees. All of these were good solid organizational changes that underlay positive changes in our business practices.

In June 2000, we met in Cincinnati with managers from across the US to review what we needed to do to prepare for the GUST submissions, due to begin later that year for pre-approved specimen plans and the end of 2001 for individually designed plans. As I surveyed all the disruption in normal business activities this process was due to take, I asked people "Isn't there a better way?" What I was thinking about was, e.g., the SEC "no action" approach to technical inquiries, or possible outsourcing of the DL activity, or some way to make the approval process better meet the needs of the customers and the IRS. People came back to me with "Go try to find a better way."

So, we did. We brainstormed, at first internally, among managers and employees, and then gradually, more and more, with the private sector as well. We worked the issues and came up with ideas that would help us improve the current program as well as create something totally different for the future. Our first result was the "[White Paper](#)" published in 2001. That paper served as the launching pad for a lot more discussion, both internal and external, that in turn spawned the [second "White Paper"](#) in 2003. And from there we kept on with the partnering discussion until the spring of 2004 and the publication of our "game plan" and our draft rev. proc. on the combination of the M&P and Volume Submitter programs. Now we are rounding the corner on completing the new approach for the DL program, a 5-year staggered approach for individually designed plans and a 6-year program for pre-approved plans. We published the first annual "[Cumulative List of Changes](#)" in December, the procedure combining the M&P and VS programs in February and will publish the final piece of guidance, the rev. proc. implementing the new DL program, within the next several months. We are on the way!

Of course, nothing is ever final. We know that. There will be problems that we have not foreseen and will need to fix. But we remain committed to working those issues, both internally and with our customers, and finding ways to fix problems as they are identified.

When I arrived, I also discovered our somewhat “amorphous” guidance program, a series of movable feasts, with diners arriving and departing at unpredictable points in time, and with the objectives sometimes unclear and often hard to reach. I also discovered that, in theory, I personally could be in attendance at these meetings all the time, day and night it seemed, without thought of the other tasks I had before me. So, we all together, working with Treasury and Counsel and the Technical Guidance group, reformulated the way we work guidance issues, into a “small group” that does the leg work and a “large group” that makes policy calls brought to it by the small groups. We also emphasized, to a greater degree than in the past, the role of partnering with our customers to “market test” the directions of our various items of guidance. This was, of course, consistent with what we were doing in the DL area, and mutually supportive. I think those of us involved in the guidance process believe that it has operated with increased effectiveness because of these changes over the past several years.

Also when I arrived, I discovered that a nascent Voluntary Compliance group was in the process of being formed – actually it was still being “designed” by the “design team” at that time – and its establishment was one of our, and my, main goals. In short order, VC had its structure outlined, its employees selected and then “stood up” – IRS parlance for beginning to function with employees, managers, coordinators, locations around the US. VC, now one of our most popular programs, flourished with great internal leadership and continuous improvements based on input from employees and interested partners in the private sector. The program is now the “poster child” for EP’s commitment to helping employers ensure that their retirement plans are compliant.

These are three of the areas where I believe we have seen the most, and best, change. There are many others. And overlaying these three and the other changes is the theme I am most happy to be associated with, that of concern for the customer, for bringing the customer into our processes to help us get the best solution for all involved, which I call “partnering.” I am very hopeful that this tradition will continue and indeed expand, as I think there are many ways in which partnering can become more a part of what we do.

And so, I leave you with these thoughts and hope they will be helpful for the future. Again, I thank each and every one of you who has been so helpful and friendly to me over the past five years. Please have a healthy, happy, successful and prosperous future!

Paul•

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## **The LRMs Have Landed!**

The new LRMs for defined contribution Master & Prototype (M&P) Plans and Volume Submitter (VS) Plans are out! And there are more details on procedures for submitting applications to the IRS for opinion or advisory letters. Highlights include:

- Deadlines for submitting plans (October 31, 2005 for certain sponsors and practitioners and January 31, 2006 for others),
- Certain procedures that apply to national sponsors (defined in [Rev. Proc. 2005-16](#)), and
- Information on additional user fees for M&P mass submitters and sponsors submitting over 10 trusts or custodial accounts with a single prototype plan document.

## **LRMs**

The IRS has just posted the LRMs – Listing of Required Modifications – containing sample language that sponsors and mass submitters of defined contribution M&P plans may use in drafting their plans ([DC LRMs](#)). Another set with sample language for M&P plans with cash or deferred arrangements ([CODA LRMs](#)) was posted on March 2, 2005. The LRMs have been updated for changes in the law made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) as amended by technical corrections, and other guidance.



The IRS announced in Rev. Proc. 2005-16 that it would begin accepting applications for opinion and advisory letters for defined contribution M&P and VS plans that take EGTRRA and other changes into account, beginning February 17, 2005. M&P sponsors and mass submitters are encouraged to use LRM language and to identify where the LRMs are used in their plan documents. In addition, practitioners and mass submitters of VS plans may find the language useful in drafting plans.

**Important:** note that *there is currently no sample language for DC LRM #49* relating to timing and modes of distribution under section 401(a)(9). That LRM is being revised to integrate all of the changes under that section into comprehensive plan language, and will be posted on the web site when it is completed.

## The Determ Letter Check is in the Mail, er, Fax Machine

In our ongoing efforts at providing higher quality favorable determination letters, the EP Determinations office is testing a pilot program that began in February with a Cincinnati-based group of specialists. During a 2-3 month period, a small sample of applicants will have the opportunity to “pre-review” their favorable determination letters. The aim of the program is lessening the need for practitioners to contact the IRS for letter corrections after issuance. If successful, this will save both customers *and* the IRS valuable time.

Here’s how the program works: Before a determination application is closed, the EP specialist will send the designated representative (or plan sponsor) – via FAX – a “proposed” copy of a favorable letter stamped “DRAFT.” The FAX cover sheet will include a notice giving three business days for response. Correction of errors can be proposed via a return FAX. These cases will be reviewed by the assigned specialist for agreement with proposed corrections. If the favorable letter appears accurate, no response to the IRS is necessary.

Bob Bell, Manager, EP Determinations, emphasized, “This program is strictly voluntary. No one has to participate to receive a favorable determination letter.” He added that no extensions of the three-day review period will be granted during the pilot. In conclusion, Mr. Bell said, “I look forward to evaluating the results of this pilot. I’m enthusiastic about this and I expect that it will really add to our quality customer service.”●

In addition, both the DC and CODA LRMs will be revised as necessary at a later date to incorporate changes to plans required by final regulations under section 402A relating to Roth 401(k) elective deferrals and proposed regulations under section 415, when these regulations are issued. The new CODA LRMs reflect the proposed regulations under section 402A relating to Roth 401(k) elective deferrals. M&P sponsors and mass submitters may submit plans using the published LRM language before the Roth 401(k) final regulations and proposed regulations under section 415 are issued, but in virtually all cases will have to update their submissions later.

## Information on Submission Procedures

As noted in Rev. Proc. 2005-16, sponsors and practitioners must submit pre-approved DC plans for opinion or advisory letters by January 31, 2006. However, mass submitter lead and specimen plans and national sponsor plans (M&P and VS) must be submitted by October 31, 2005. The October 31 and January 31 dates were previously referenced in the draft revenue procedure attached to [Announcement 2004-71](#). That draft revenue procedure is expected to be finalized later in 2005, and will provide further details on the deadlines applicable to the various types of pre-approved plans (defined benefit and defined contribution plans) and individually designed plans.

In addition, the IRS intends that national sponsors – as well as M&P and VS mass submitters of lead and specimen plans – will receive expedited review (within the meaning of [section 12.05](#) of Rev. Proc. 2005-16). Further details may be provided later as necessary.

Finally, Rev. Proc. 2005-16 provides that mass submitters and sponsors of M&P prototype plans may submit an

unlimited number of trusts or custodial accounts with a single plan document. As provided in that procedure, the user fee for certain submissions of prototype plans with a large number of trusts or custodial accounts will be stated in future guidance. There is an additional user fee of \$480 for each trust or custodial account above 10 submitted in accordance with the procedures under Rev. Proc. 2005-16, effective as of February 17, 2005. (This is identical to the amount in section 6.04(2) of [Rev. Proc. 2005-8](#), relating to the user fee for each additional adoption agreement for mass submitter M&P plans.) Rev. Proc. 2005-8, updated at the beginning of each calendar year, will be revised in 2006 to reflect this new user fee.●

## Power Outage?

When it comes to Determination Letter requests, some designated representatives are feeling a loss of power. The reason: They don't receive a letter acknowledging the receipt of the application.

Or, when they call into the Customer Service line to discuss an application and are told that they don't appear on the system. When this happens, the customer service representative can't discuss the case with them.

Designated representatives are left wondering why these things happen.

These situations arise as a result of inherent constraints within EP's computer systems. The system that generates the receipt letters only has the capacity to input the name of **one** designated representative. This is always the first valid representative on the Form 2848. Many times the first listed representative is the owner of the company or the partner of the law firm, not the representative actually working the case. As a result, the representative working the case does not receive a copy of the receipt letter.

As for those representatives who are frustrated by their calls to customer service agents, consider that the permanent EP database reflects the names of only **two** representatives. Prior to January 1, 2005, only one representative – the first one named on the Form 2848 – was entered into the system. To address the concerns of representatives, EP now enters the first two named representatives. The third slot on the Form 2848 is used to designate a representative for volume submitter specimen plan issues. Those names are never entered into the system.

To reduce – or even eliminate – these situations, EP is working on its new database system, TEDS (See the [Winter 2004 Edition](#) for more information on TEDS). With TEDS, the actual documents will be scanned and entered into the system. This way, **all** named representatives will be shown in the system. However, TEDS won't be ready until late 2006 or early 2007, at the earliest, for Form 5307 applications – later for other types of applications.

In the meantime, try listing the representative who is actually working the case in the first position. Use the second position for the representative to contact in the event the first named representative is unavailable.

So...to lessen the chances of a future power outage, remember the constraints of the current system and list designated representatives accordingly – and keep telling yourself that 2006 isn't *that* far away. •

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## Upon Further Determ Review...

Here are two recurring issues that are appearing in both Volume Submitter and individually designed plan documents:

1. The sponsor is a corporation and the plan provides allocations based on classifications of employees. The initial class is those employees noted as "Owners" but the plan does not define "Owner(s)," only "Owner-Employee," which is defined as "a Self-Employed Individual who is a sole proprietor or who is a partner owning more than 10% of...the partnership." The term "Owner" as defined doesn't apply in the context of an incorporated plan sponsor. Therefore, the term "Owner" needs to be re-defined – in a manner that doesn't conflict with the current definition of "Owner-Employee" – or else replaced with a term that makes sense in the context of this sponsor, such as "Shareholder-employee." Remember: The plan must have a clearly predetermined formula for allocating employer contributions that precludes employer discretion.
2. Some plans are being written that state that if a coverage or nondiscrimination test is failed then the plan will include additional employees or add allocations to participants starting with "the youngest ..." Instead, the adoption agreement or plan section should have a predetermined formula for allocating employer contributions that is not based on age. A fail-safe type provision that favors "the youngest employee or participant" may violate the Age Discrimination in Employment Act of 1967 (as amended by the Older Workers Benefit Protection Act of 1990) and should be avoided.

Save yourself time and effort: Avoid these mistakes. •



## PBGC Insights

### Standard Termination Tip #1: How to Handle Participants Who Don't Return Benefit Election Forms

Plan administrators or plan advisors in the process of distributing benefits in a standard termination sometimes contact the Pension Benefit Guaranty Corporation for assistance because one or two participants have failed to sign and return benefit election forms despite repeated requests. They often ask PBGC to take these participants as part of its missing participant program, or seek advice from PBGC as to other possible options for dealing with those benefits.

The missing participants program applies only to participants and beneficiaries who fall within the definition of "missing participant" in the PBGC's regulation on Missing Participants (29 CFR Part 4050). The plan administrator must be unable to locate the missing participant despite a diligent search. Thus, the program does not apply to a participant merely because the participant refuses or otherwise fails to sign and return an election form. Under 29 CFR 4041.28(c), the plan administrator must, in accordance with all applicable requirements under the Code and ERISA, distribute plan assets in satisfaction of all plan benefits by purchase of an irrevocable commitment from an insurer or in another permitted form. In the case of a non-*de minimis* benefit, if a participant refuses to elect another permitted form, the plan administrator has no choice but to purchase an irrevocable commitment for the participant to complete the termination. The annuity contract must preserve all of the participant's benefit options. This would include not only the qualified joint and survivor annuity, but also any other optional forms.

For these and other tips, go to [informal guidance](#) that the PBGC prepared for Enrolled Actuaries Meetings in March 2004, 2003, 2002, 2001, 2000 and 1998. The answer above may be found under questions 11 and 12 in the 2002 edition and question 7 of the 2004 edition.

### Standard Termination Tip #2: Favorable IRS Determination Letters Do Not Preclude Additional Benefit Payments

On occasion, plan administrators and their advisors who have received favorable IRS determination letters on their plan's termination are puzzled and upset if the PBGC determines through an audit that additional participant benefits are due because lump sums paid pursuant to the termination violated the Employee Retirement Income Security Act and the Internal Revenue Service Code.

PBGC's finding does not contradict the IRS determination. Title IV of ERISA requires that PBGC audit a sampling of plans after a standard termination to determine whether participants and beneficiaries have received all their benefits. A favorable IRS determination letter addresses the plan's tax qualification but not its satisfaction of all benefit obligations. Thus, even with a favorable determination letter, PBGC will take enforcement action if it determines that participants and beneficiaries have not received all their benefits, whether because the plan administrator did not follow plan provisions or because plan provisions did not comply with the law.

A court ruling in *Flo-Con Systems, Inc. v. Pension Benefit Guaranty Corporation* upheld PBGC's position that a plan was not terminated in accordance with ERISA and Code requirements despite IRS issuance of a favorable determination letter. In part, the ruling stated: "Flo-Con's argument that the IRS approved of the termination of the plan is also without merit. The IRS letter merely said the Plan continued to comply with Code requirements for tax qualification. The IRS letter warned Flo-Con that it also had to comply with other federal law. Moreover, a letter of tax qualification is not determinative of the validity of a termination." 39 F. Supp.2d 995, 1001 (C.D. Illinois, 1998)

This issue was addressed in question 14 of the [informal guidance](#) that the PBGC prepared for the 2001 Enrolled Actuaries Meeting.

## Pension Funding Summit

EP hosted a Pension Funding Summit on January 6, 2005. The conference was attended by 40 representatives of the three agencies responsible for administering pension funding requirements, the Department of Labor (DOL), the Pension Benefit Guaranty Corporation (PBGC) and the IRS. The goal of the summit was to kick off efforts to strengthen administrative oversight by identifying the most appropriate information available to the agencies, sharing information and developing enforcement coordination procedures to resolve funding deficiencies.

After the conference, Carol Gold, Director of EP, said, "It is our hope that the summit will result in making sure that the right information is in the hands of the right people at the Agencies and that our cooperative processes are captured in standard procedures."

Over the course of the remainder of FY2005, task groups will work on form revisions and interagency agreements to facilitate information sharing, referrals and technical support. •

## **PBGC Encourages E-Filing of Premiums for 2004/2005 Plan Years**

The PBGC encourages premium filers to prepare and submit both filings and payments electronically via its e-filing system, My Plan Administration Account (My PAA). Premium filings for plan years beginning in 2004 and 2005 include Form 1-ES, Form 1-EZ, Form 1 and Form 1 with Schedule A. Payments due may be made through My PAA using ACH, electronic check or credit card, with payment to be submitted on the day of one's choice.

Electronic filing advantages over paper submissions include easier and faster preparation with improved data accuracy. My PAA enables service providers and their clients to exchange premium information, notify each other of the next required action, track the progress of each plan's filing, receive confirmation that PBGC received the filing and payment, and view the plan's account history - all electronically.

For detailed information or to set up a My PAA account, access the [PBGC web site](#), and click on the link "Online Premium Filing (My PAA)." For more information about My PAA or to receive PBGC's pamphlet describing e-filing in detail, call the agency's practitioner toll-free number at (800) 736-2444 (select the "premium" option). Note: TTY/TDD users may call the federal relay service toll-free at (800) 877-8339 to be connected.

## **PBGC Proposes Mandatory Electronic Filing of Premiums**

On March 9, 2005, PBGC published in the *Federal Register* a proposed regulation that would require plans to file PBGC premium forms electronically. Currently, the PBGC allows electronic filing on a voluntary basis. Comments on the proposed rule are due to PBGC by *May 9, 2005*.

For plan years beginning in 2004, PBGC has offered optional online premium filing through a secure application on the PBGC's web site, called "My Plan Administration Account" ("My PAA"). PBGC intends to enhance My PAA to also accept electronic filings created by private-sector software. The proposed regulation would make electronic filing of premium information mandatory on a phased-in basis beginning in 2006 for plans with 500 or more participants and in 2007 for smaller plans. PBGC would be able to grant case-by-case exemptions from mandatory e-filing. The proposed rule may be viewed in [PDF format](#) or in a [text version](#) on the [PBGC web site](#).

## **PBGC Issues Final Rule on Electronic Filing of Annual Financial and Actuarial Information**

On March 9, 2005, PBGC published in the *Federal Register* a final regulation that requires certain controlled groups (1) to electronically file in a standardized format certain identifying, financial, and actuarial information and (2) to submit additional items of supporting information that are readily available to the filer.

Section 4010 of ERISA requires the reporting of actuarial and financial information by controlled groups with plans that are significantly underfunded or have missed substantial amounts of required contributions. This reporting provides PBGC timely information on plans representing the largest exposure to the pension insurance system and helps PBGC to focus its resources on situations that pose the greatest risks to participants and premium-payers.

The main purposes of the final regulation are to require reporting of additional already-calculated information and to require electronic filing of all information. The final rule may be viewed on in [PDF format](#) or in a [text version](#) on the [PBGC web site](#).

## **Small Business Week 2005**

The U.S. Small Business Administration will mark 42<sup>nd</sup> National Small Business Week in Washington, D.C., April 26-28, 2005, with SBA Expo '05 showcasing Small Business Persons of the Year winners from each state, and featuring the announcement of the National Small Business of the Year.

National Small Business Week honors some of the nation's estimated 25 million small business owners that have helped to drive the nation's economy. Small businesses employ more than half the country's private work force, create three of every four new jobs and generate a majority of American innovations.

SBA Expo '05 will also feature special events that include a small business expo, a business matchmaking event, business seminars, a town hall meeting and award ceremonies honoring America's top entrepreneurs and state and national small business winners. Other highlights will include notable speakers and business industry leaders from trade associations, and local and federal governments.

Information on SBA Expo '05 can be found online at [www.sba.gov/expo](http://www.sba.gov/expo).

## Employee Plans Published Guidance

(January 2005 – March 2005)

### Regulations

<a href="#"><u>T.D. 9164, 69 Fed. Reg. 75455, 2005-3 I.R.B. 320</u></a>	Prohibited allocations under section 409(p) of the Code.
<a href="#"><u>T.D. 9169, 69 Fed. Reg. 78144, 2005-5 I.R.B. 381</u></a>	Cash or deferred arrangements, matching employer contributions, and employee contributions under subsections (k) and (m) of section 401 of the Code.
<a href="#"><u>T. D. 9176, 70 Fed. Reg. 3475, 2005-10 I.R.B. 661</u></a>	Anti-cutback rules and the elimination of a notice requirement in section 411(d)(6)(E) of the Code.
<a href="#"><u>REG-152914-04, 70 Fed. Reg. 4058</u></a>	Relative value under section 417(a)(3) of the Code.
<a href="#"><u>REG-152354-04, 70 Fed. Reg. 10062</u></a>	Roth contributions to cash or deferred arrangements.

### Revenue Procedures

<a href="#"><u>Rev. Proc. 2005-4, 2005-1 I.R.B. 128</u></a>	The basic EP/EO letter ruling and general information letter revenue procedure.
<a href="#"><u>Rev. Proc. 2005-5, 2005-1 I.R.B. 170</u></a>	The basic EP/EO technical advice revenue procedure.
<a href="#"><u>Rev. Proc. 2005-6, 2005-1 I.R.B. 200</u></a>	The basic EP determination letter revenue procedure.
<a href="#"><u>Rev. Proc. 2005-8, 2005-1 I.R.B. 243</u></a>	The basic EP/EO user fee revenue procedure.
<a href="#"><u>Rev. Proc. 2005-16, 2005-10 I.R.B. 674</u></a>	Describes the Master & Prototype and Volume Submitter programs of the EP function for pre-approved plans.

### Notices

<a href="#"><u>Notice 2005-5, 2005-3, I.R.B. 337</u></a>	Questions and answers on the automatic rollover rules as well as a sample amendment for purposes of section 401(a)(31)(B) of the Code.
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## Web Spins – The Retirement Plans Site

We're back: **Web Spins** - the column that takes you for a quick spin around the [Retirement Plans web page](#). This edition's column takes a sampling from the oodles of retirement plan topics.

- **Can't Stop Process** – As reported earlier in this edition, EP has posted the new EP Examination Process Guide. For now, you'll find it on the landing page – later, its permanent home will be in the EP Examination section of the [Retirement Plans web page](#). Obviously, no one likes being the subject of an exam but the Process Guide will help explain what goes on in an EP exam, common issues our examiners look for, and what a taxpayer's rights are.
- **LRMs EZ as ABC** – Also as reported earlier in this edition, the new DC LRMs are available. If you want to check them out just click on "More Topics" under the Related Topics section and select "Determinations." The new LRMs take into account recent law changes and will help sponsors write their plans in accordance with the new requirements.
- **ESOP Fables** – S Corp ESOPs are garnering a good deal of press these days. For example, the IRS recently sent 1,700 businesses and retirement plan sponsors letters warning them against abuses involving ESOPs and S corporations. EP has issued news and press releases along with proposed and temporary regulations in this area. To see the relevant guidance and information, click on "EP Abusive Tax Transactions" and select "S Corp ESOP Guidance."
- **Future Cast** – EP is continuing to develop a better web site. As we reported in the [Winter 2005 Edition](#), our web page has a new look and even a new name on the main IRS landing page [www.irs.gov](http://www.irs.gov). EP is working on creating a new "newsier" look featuring a "sound bite" appearance of new topics along with each item's posting date. In addition, look in the coming months for a re-designed EP Examination page and even more info for plan participants and employees. •

## Quick Hits

Welcome back to Quick Hits. In this edition we'll follow up on the Special Editions that we've issued in the last couple of months along with some Comings & Goings. Here are the highlights:

- **EP's Invigorated Enforcement Program:** In his January 28 speech at the LA Benefits Conference, TE/GE Commissioner Steve Miller delivered a strong message on compliance and professional ethics. Mr. Miller remarked on his belief that EP needs to "rebalance our efforts" with respect to enforcement presence. Mr. Miller also asked practitioners for help to "level the playing field" regarding unethical practitioners. For details on Mr. Miller's speech, see the [February 7 Special Edition](#).
- **Short Changed Gets Clarified:** The [November 3 Special Edition](#) alerted EP field staff and benefits community to schemes using employees with short periods of service. These schemes may circumvent the nondiscrimination requirements of IRC 401(a)(4). In our [February 7 Special Edition](#) we let readers know of a clarification of the EP position. The article also features a link to a [letter sent to ASPPA](#) further spelling out our position on this hot topic.
- **DLs 4 EGTRRA – M&P & VS DCs:** In our [February 17 Special Edition](#), we stated that the Determ program is now accepting applications for opinion and advisory letters for many defined contribution plans. These applications will be considered for determining whether plans meet the requirements of EGTRRA. See the Special Edition for more details.
- **Hello:** Meet Craig Bellanger, the new EP Area Manager for Gulf Coast – Prior to this position, Mr. Bellanger was the EP Manager of the New Orleans group for five and a half years. Before then, he spent eight years as an EP agent.
- **Farewell:** Bill Sweetnam, Benefits Tax Counsel in Treasury's Office of Tax Policy, stepped down on February 25. Mr. Sweetnam was responsible for providing policy analysis and advice to the Assistant Secretary of Tax Policy on employee benefits, including retirement plans. •

## The Corner of Forms & Pubs

Welcome back to the Corner of Forms & Pubs – the EP version of Hollywood & Vine. The information here at the Corner is usually brief but this time around we lead off with a bigger than brief piece on getting copies of the elusive Form 5500.

### Psst...Need a Copy of a Filed Form 5500 or 5500-EZ?

Written requests for copies of filed Forms 5500 are handled by the Public Disclosure Office of the Department of Labor at the address listed below. In order to process the request the DOL will need the following information:

- Name of the plan sponsor,
- EIN,
- Plan number and
- Plan year.

## Can We Talk?

Well...it depends. It's been almost a year since the IRS reformed its policy towards the use of [Form 2848](#), *Power of Attorney and Declaration of Representative* ...and it's still causing unenrolled preparers some confusion.

When it comes to the preparation of returns (such as the Form 5500) and representation during an EP Examination, unenrolled individuals who signed the return may act as the taxpayer's representative (using the Form 2848), but only in matters concerning that particular plan year. More expansive representation would be available through the use of [Form 8821](#), *Tax Information Authorization*.

Within the Determination Letter arena, an unenrolled preparer is further limited. As of April 1, 2004, Forms 2848 are no longer accepted where the representative is an unenrolled return preparer. Unenrolled preparers need instead to use Form 8821.

The Advisory Committee on Tax Exempt and Government Entities (ACT) and EP recognize the important role played by benefits professionals who are not currently permitted to represent taxpayers in their dealings with EP, but upon whom many taxpayers depend for their expert advice regarding plan establishment and administration. ACT is currently considering the advisability of a recommendation that would permit enrollment for limited purposes to applicants who can demonstrate special competence in EP matters. The ACT is gathering information from interested parties in the employee plans community in an effort to determine whether such a recommendation would not only serve the oversight needs of the IRS with respect to professional and compliant service providers for employee plans, but also extend representational rights and responsibilities to a community that has provided valuable services to employers who maintain plans. Comments may be emailed to [tege.act@irs.gov](mailto:tege.act@irs.gov).

As usual, we'll keep you posted on developments!•

Information regarding the DOL policy and copying costs can be found at their [web page](#). The phone number for the Public Disclosure Office of the Department of Labor is (202) 693-8673. Their address is:

U.S. Department of Labor  
Public Disclosure Office, Room N-1513  
200 Constitution Ave. NW  
Washington D.C. 20210-1111

Written requests for copies of filed Forms 5500-EZ are handled by the IRS. The requestor should request the copy of the filed Form 5500-EZ using [Form 4506](#), indicating the plan number on line 7 of Form 4506 along with the tax period/plan year, or submit a written request which includes the same information as outlined above. There is **no** charge to receive a copy of the Form 5500-EZ. The request should be sent to:

Internal Revenue Service  
1973 Rulon White Blvd.  
EP Accounts M/S 6270  
Ogden, UT 84404

### Free CD-ROM on IRAs and IRA-Based Plans

Do your clients have SEP or SIMPLE IRA plans or have they asked you about setting one up? Maybe you could use some help convincing clients to get serious about retirement savings. Or maybe you're interested in learning more about your own IRA.

The IRS has a new CD-ROM containing information about traditional and Roth IRAs and retirement plans based on IRAs, including SEPs, SARSEPs, and SIMPLE IRA plans. Included on the CD is

information from the IRS, Social Security Administration, the Securities and Exchange Commission and other federal agencies about setting up, investing, making withdrawals from and correcting mistakes in operating these powerful retirement savings tools. Research material related to IRAs, from Code and Regulations to Revenue Procedures, Notices and Announcements, is included in a section for tax and benefits professionals. You'll also find IRA forms and publications, a calculator for estimating funds needed at retirement, investing tips, video clips and links to other Federal agency web sites with useful information for you and your clients. •

## 2005 IRS Nationwide Tax Forums

The 2005 IRS Nationwide Tax Forums will be held in six locations across the country starting in June. Each conference runs for three days and contains a variety of seminars and an exhibit hall. Several new locations have been added this year. Tax professionals can earn Continuing Professional Education credits at each forum site.

Both Employee Plans and Exempt Organizations will present seminars at the Tax Forums. The EP seminars are “**About Your Retirement**” and “**Retirement Toolbox**.” “**About Your Retirement**” presents real life examples to help you and your clients choose the right retirement plan. “**Retirement Toolbox**” features information geared toward helping small business owners keep their retirement plans operating properly.

The IRS Tax Forum Exhibit Hall gives practitioners an opportunity to interact with IRS employees and other tax professionals. Also at the Exhibit Hall, the operating divisions within the IRS offer their latest tax products and services. Top firms in the industry will display their booths at the Exhibit Hall.

The locations and dates are:

San Francisco, CA	June 28 – June 30
Houston, TX	July 12 – July 14
Atlanta, GA	July 26 – July 28
New York, NY	August 9 – August 11
Las Vegas, NV	August 23 – August 25
Chicago, IL	August 30 – September 1

To get additional information about Tax Forums, visit [www.irs.gov](http://www.irs.gov) and then go to “Tax Professionals”, “Tax Pro Events” and “IRS Nationwide Tax Forum.” Be sure to check back with [www.irs.gov](http://www.irs.gov) for additional seminar topics, workshop information and the link for the on-line registration process, which will begin April 1, 2005. •

## 2005 Mid-Atlantic Benefits Conference

The 2005 Mid-Atlantic Employee Benefits Conference will be held on May 23-24, 2005, at the Park Hyatt Hotel, Broad and Walnut Streets, Philadelphia, PA. This annual conference is jointly sponsored by the IRS and ASPPA. The conference offers pension professionals the opportunity to meet with actuaries, CPAs, enrolled agents and attorneys from private industry, public practice and the federal government.

The conference will feature panel discussions with public and private sector participants. It will also provide a unique opportunity for attendees to meet and discuss common areas of interest with government representatives. Using an interactive panel format, discussions will focus on important issues. Also planned are special pre-conference panel discussions and a Q&A session on Sunday evening, May 22.

The conference will feature discussions on:

- Current legislative and regulatory changes
- Department of Labor issues and updates
- IRS audits
- Correction options
- Current IRS initiatives
- And much more

Interactive Tables will be offered again this year to provide an opportunity for the attendees to meet informally for one-on-one discussions with EP specialists in the areas of Closing Agreement Program/Voluntary Correction, Examinations, 401(k), Abusive Tax Transactions/ESOPs, Customer Education & Outreach, and EP Team Audit/Multi-Employer. The Department of Labor will also staff an Interactive Table.

The conference is an essential learning and interactive experience for serious pension practitioners. EP and ASPPA invite pension practitioners to join them at this conference. For further information on how to register, go to [www.asppa.org/mabc.htm](http://www.asppa.org/mabc.htm). •



## Great Lakes Benefits Conference

IRS employees contributing to this edition of the *Employee Plans News* are:

**William Anderson,  
Sandra Barnes,  
Robert CreMeens,  
Carol Gold,  
Ingrid Grinde,  
Joe Harpring,  
Kathy Herrmann,  
Terri Holloway,  
Stephen James,  
Cathy Jones,  
Doug Jordan,  
Michael Julianelle,  
Teresita Laureano,  
Dawn Lucas,  
Peter McConkey,  
Gale Moore,  
Todd Newman,  
Mark O'Donnell,  
Sylvan Oppenheimer,  
Nancy Payne,  
Sharon Polo,  
Wiley Ransom,  
Mike Rubin,  
Bonnie Schaumberg,  
John Schmidt,  
Paul Shultz,  
Brenda Smith-Custer and  
Mikio Thomas**

Mark your calendars for May 5-6, 2005 because the IRS is again partnering with ASPPA and more than 20 Cooperating Sponsors to hold the annual Great Lakes Benefits Conference in Chicago. The Great Lakes Benefits Conference is an opportunity to meet and discuss employee benefit issues with private practitioners and government agency representatives. The program focuses on exchanging information, advancing knowledge, and fostering sound principles, procedures, and practices.

The 2005 Conference will be held at the Hyatt McCormick Place located at: 2233 S. Martin Luther King Drive Chicago, IL. Sessions will start Thursday, May 5 at 8:30 am and will conclude Friday, May 6 at 5:30 pm. A "Meet the Speakers" reception will be held Thursday evening. The hotel will provide conference attendees with free shuttle service to Michigan Avenue, Navy Pier and the Museum campus.

General Sessions include:

- *Washington Legislative and Regulatory Update* with Carol Gold, Director Employee Plans; Brian H. Graff, ASPPA; Marjorie Hoffman, Office of Chief Counsel, TE/GE, IRS and Martin Pippins, EP Technical Guidance and Quality Assurance
- *The New and Improved Determination Letter Program* with Vickie Surguy, EP Determinations Area Manager, Cincinnati, and Monika Templeman, EP Area Manager, Great Lakes
- *Hands-on Approach to IRS/DOL Audits* with Steven Haugen, Deputy Regional Director, EBSA; Monika Templeman, IRS; Leslie A. Klein, Sonnenschein Nath & Rosenthal and Thomas G. Schendt, Alston & Bird
- *Recent Court Cases* with Alex M. Brucker, Brucker & Morra

Scheduled Breakout Sessions Include:

- *EPCRS – A Case Study Approach*
- *The Ever-Changing 401(k) plan – New Regulations, Roth 401(k)s and Automatic Rollovers*
- *Relative Value Regulations and Eliminating Optional Forms of Benefits – or Vice Versa!*
- *Real 412(i) Plans – After the Abuses Are Gone*
- *Local IRS Audit Issues – An IRS Agent's Perspective*
- *403(b) and 457 Plans – from a 401(k) Point of View*

For more information and to register online, visit the [ASPPA web site](http://ASPPA web site) or contact the ASPPA Meetings Department at (703) 516-9300 or e-mail [meetings@asppa.org](mailto:meetings@asppa.org).

## 18th Annual Cincinnati Employee Benefits Conference

The 18th Annual Cincinnati Employee Benefits Conference will be held on Thursday, June 9 and Friday, June 10, 2005. The conference, which is jointly sponsored by the IRS, the Department of Labor and the Cincinnati Bar Association, will be held at the Westin in downtown Cincinnati, Ohio.

This conference provides pension professionals with an excellent opportunity to meet and discuss employee benefit issues with private practitioners and key government agency representatives. Attendees can earn continuing professional education (CPE) credits.

The conference agenda includes general sessions of broad interest (featuring prominent government and private sector speakers, including Sal Tripodi speaking about Qualified Retirement Plan Issues), a variety of breakout sessions and keynote luncheon speakers.

## Cincinnati Benefits Conference *continued from page 15*

There will be an IRS Booth that will provide an opportunity for the attendees to ask questions of EP specialists. There will be specialists available with specific knowledge in the areas of EPCRS, Volume Submitter Plans, Technical Screening, EP Examinations, Customer Education and Outreach, and Customer Service. DOL and private vendors will also be there.

The Conference is an essential learning and interactive experience for serious pension practitioners. IRS and the CBA invite pension practitioners to join them at this conference. For more information contact the CLE Department, Cincinnati Bar Association at (513) 381-8213.

The 2005 18<sup>th</sup> Annual Cincinnati Employee Benefits Conference will be held at:

The Westin Cincinnati  
21 East 5th St  
Cincinnati, Ohio  
(513) 621-7700 •

## Northeast Employee Benefits Conference

Select your date and location! The IRS, in association with the Northeast Area's Pension Liaison Group and the American Society of Pension Professionals & Actuaries (ASPPA), announces this year's Northeast Employee Benefits Conference.

This year, the conference will be held on June 9, 2005 at the Crowne Plaza Boston-Natick in Natick, MA, and on June 10, 2005 the conference will be repeated at the Crowne Plaza in White Plains, NY. These two sites provide pension professionals from New York and New England the opportunity to attend a conveniently located conference.

The conference educates pension professionals about current regulatory, legislative, and administrative topics. The conference also provides participants an opportunity to discuss employee benefit issues with colleagues as well as local and national government employees from the IRS and Department of Labor. Throughout the day you'll have the opportunity to meet and discuss your issues with IRS employees such as:

- Michael Julianelle, Director, EP Examinations,
- Lisa Mojiri-Azad, Senior Technical Reviewer, Office of Division Counsel/Associate Chief Counsel (TE/GE),
- William Schmidt, Senior Counsel, Office of Division Counsel/Associate Chief Counsel (TE/GE),
- Jim Holland, Manager, EP Technical,
- Charles Petrasanta, Northeast Area Actuary and
- Other government speakers.

This year's agenda includes panel discussions on:

- The latest Washington Updates,
- DOL and Title I issues, Final 401(k) Regulations,
- Late Breaking Developments & Regulations (including a session entitled "Plan Administration goes to the Dogs, as new rules are Unleashed!" covering locating missing participants, automatic rollovers and Roth 401(k)s)

There will also be breakout sessions on DB and DC Plan Designs, Nonqualified Deferred Compensation Arrangements under the new IRC 409(A) Regs and an explanation of the Proposed Regulations under 403(b).

For more information and to pre-register for the Northeast Benefits Conference, contact the ASPPA Meetings Department at (703) 516-9300 or visit the ASPPA web site at [www.asppa.org](http://www.asppa.org) •

### CONTACTING EMPLOYEE PLANS

The *Employee Plans News* welcomes your **comments about this issue** and/or your **suggestions for future articles**. Send comments/suggestions to:

EP CE & O  
SE:TEP:CEO  
1111 Constitution Avenue, N W, PE-4C3  
Washington, D.C. 20224

or FAX (202) 283-9525

or E-Mail [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov)

For **EP Taxpayer Assistance**

**For retirement plans technical and procedural questions:**

Please call (877) 829-5500

Or visit the EP Customer Account Services section of the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep).

**For questions relating to retirement income, IRAs, ROTH IRAs, educational IRAs, medical savings accounts and section 125 cafeteria plans:**

Please call (800) 829-1040

For further **Employee Plans Information:** Go to the Retirement Plans web page at: [www.irs.gov/ep](http://www.irs.gov/ep).

## 2005 Los Angeles Benefits Conference Recap

The IRS, in association with the American Society of Pension Professionals & Actuaries (ASPPA), National Institute of Pension Administrators, and Western Pension & Benefits Conference presented the 2005 Los Angeles Benefits Conference on January 27–28 at the Hilton Los Angeles/Universal City.

On January 26, a pre-conference was held that provided an opportunity for practitioners to converse with IRS and DOL employees regarding current issues. Conference speakers included practitioners; the DOL; the IRS; and the Education & Workforce Committee, House Committee on Education and Workforce.

Topics at this year's conference included:

- Washington Update
- DB Plan Design
- 403(b) Plans
- How Do You Handle an IRS Audit?
- DOL Regulatory Developments
- Case Studies in Correction Under EPCRS - Practical Advice from the Experts
- 401(k) Plan Design

Luncheon speakers were William F. Sweetnam, Jr., Office of Benefits Tax Counsel, Department of Treasury and Steven T. Miller, Commissioner, TE/GE, IRS.

Four Employee Plans "Interactive Tables" were featured at the conference: IRS Speaker Table; Employee Plans Determinations Table; Employee Plans Examinations Table; and EPCRS Table. Attendees had the opportunity to have one-on-one discussions with EP speakers, managers and specialists.

For more information regarding future conferences, visit the [ASPPA web site](http://www.asppa.org) or phone (703) 516-9300. •

## Calendar of EP Benefits Conferences

### UPCOMING EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Further Information, Please Contact
<b>Great Lakes Benefits Conference</b>	05/05/05-05/06/05	Chicago, IL	ASPPA & other cooperating sponsors	ASPPA <a href="http://www.asppa.org">www.asppa.org</a> or, ASPPA Meeting Department: (703) 516-9300
<b>Mid-Atlantic Benefits Conference</b>	05/23/05-05/24/05	Philadelphia, PA	ASPPA	
<b>Northeast Benefits Conference</b> (2 Locations)	06/09/05-06/10/05	Framingham, MA & White Plains, NY	ASPPA & NE Area Pension Liaison Group	
<b>18<sup>th</sup> Annual Cincinnati Employee Benefits Conference</b>	06/09/05-06/10/05	Cincinnati, OH	Cincinnati Bar Association	CBA (513) 381-8213

### RECENT EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Information, See
<b>Los Angeles Benefits Conference</b>	01/27/05-01/28/05	Los Angeles, CA	ASPPA, NIPA, WPBC and other cooperating sponsors	<i>EP Benefits Conferences Calendar at</i> <a href="http://www.irs.gov/ep">www.irs.gov/ep</a>
<b>SWBA/IRS 15<sup>th</sup> Annual Employee Benefits Conference</b>	11/15/04-11/16/04	Dallas, TX	Southwest Benefits Association (SWBA)	
<b>Central &amp; Mountain Sts. Benefits Conference</b>	09/13/04-09/14/04	Denver, CO	ASPPA and WPBC	

